

## **RENO POLICE DEPARTMENT GENERAL ORDER**

This directive is for internal use only and does not enlarge this department's, governmental entity's and/or any of this department's employees' civil or criminal liability in any way. It is not to be construed as the creation of a particular standard of safety or care in an evidentiary sense, with respect to any complaint, demand for settlement, or any other form of grievance or litigation. Violations of this directive, if substantiated, can only form the basis for intra-departmental administrative sanctions.

Chief of Police: Steve Pitts /s/		
Approving Deputy Chief: Thomas Robinson V /s/		
General Order No: E-210-05	Issued: July 13, 2001	Revised: March 5, 2013
General Order Title: <b>INTERNAL AFFAIRS/EMPLOYEE RIGHTS</b>		

### **POLICY**

The Reno Police Department provides a process in which the community and its employees can have confidence that complaints concerning department procedures, employees, and actions will be fairly investigated. The public expects the Department to investigate crimes and questionable incidents involving actions of employees in an objective manner, while respecting employees' constitutional and statutory rights.

Investigations will be conducted in a manner conducive to good order and discipline. The following guidelines are in accordance with court decisions, laws, employee contracts, and departmental procedure.

### **DEFINITIONS**

#### **Administrative Investigations**

Administrative investigations are those commonly conducted by Internal Affairs to determine the facts surrounding incidents involving allegations that employees may have violated departmental regulations. Administrative investigations are confidential and their contents are not accessible for use in criminal investigations.

#### **Administrative Leave with Pay**

Administrative leave with pay is a process whereby employees are removed from specific work assignments during criminal and/or administrative investigations related to the employee's performance of his/her duties and/or when the employee's fitness for duty is in question. The types of administrative leave with pay include:

#### **Exigent Circumstance Leave**

A supervisor has the authority to place an employee on immediate administrative leave with pay with articulable justification under circumstances requiring immediate action. If an employee is sent home on administrative leave with pay, a report containing justification for the action will be completed and provided to the division commander and the employee's association disciplinary representative prior to 0800 hours on the following work day. The employee will be required to respond to the division commander the next work day at 0900 hours. Continued leave of absence with pay must be

authorized by the Chief of Police or his/her designee. Circumstances for this leave include, but are not limited to:

- Insubordination;
- Intoxication or substance abuse;
- Mental or physical condition preventing the employee from properly performing his/her duties;
- Criminal or administrative allegation concerning employee's access to confidential information; or
- Other articulable reasons indicating the employee could not or should not perform in a restricted-duty status.

Employees placed on Exigent Circumstance leave are prohibited from using their police authority until that authority is reinstated by the employee's division deputy chief. The relieving supervisor will take control of the employee's badge, RPD identification card, department owned weapon and/or any other city owned equipment as may be appropriate given the circumstance. If the decision is made to not collect the aforementioned equipment, the relieving supervisor will include the facts and circumstances that lead to that decision in their report to the division deputy chief.

### **Major Incident Leave**

A major incident includes those incidents described in the General Order titled "Employee-Involved Shootings," or allegations of misconduct that if sustained would result in significant discipline, or situations where an officer may be physically or mentally unable to perform his/her duties satisfactorily. Under these circumstances, an officer will be placed on administrative leave with pay pending the resolution of appropriate administrative investigations, or if appropriate, the employee may be placed on limited-duty leave.

### **Limited Duty-Leave**

Officers involved in a major incident may be removed from field-duty and placed in a non-uniformed administrative assignment. The assignment is considered light-duty and prohibits the taking of enforcement action as a sworn officer. While in light-duty status, exigent circumstances may occur in which the employee must take some action to protect himself/herself or others. Should this occur, the employee shall minimize his/her involvement as dictated by the situation. The work schedule and type of assignment while in light-duty status will be at the discretion of the Chief of Police/designee.

### **Administrative Leave Without Pay**

Administrative leave without pay will only be given by the Chief of Police/designee, in accordance with Civil Service Rules and Regulations.

### **Conflict of Interest**

A conflict of interest arises when a government employee's interest conflicts or appears to conflict with their official responsibility or ability to conduct an independent and impartial investigation.

### **Complaint**

A complaint is an act of expressed dissatisfaction relating to department operations, personal conduct, or unlawful, excessive, or unnecessary acts. Complaints may take the following forms:

### **Formal**

A formal complaint is generally a written, signed personnel complaint form and/or a taped statement of the allegation. A verbal statement, even though not taped, may constitute grounds for a formal investigation.

### **Informal**

An informal complaint, verbal or written, is an allegation of minor misconduct, being made for informational purposes that can normally be resolved at the time the complaint is made.

### **Administrative-Directed Investigations (ADI)**

Administrative-directed investigations are written complaints initiated by an employee against another employee.

## **Non-disciplinary Supervisor Actions**

### **Oral Counseling**

Oral counseling is a conversation between a supervisor and an employee about a specific aspect of the employee's performance or conduct and is warranted when an employee has committed a relatively minor infraction or the nature of the offense is such that oral counseling is all that is appropriate. Oral counseling is considered corrective action, not disciplinary action.

### **Employee Performance Comment Sheet (EPCO)**

The Employee Performance Comment Sheet is a form to be used by supervisors to document exceptional or unsatisfactory performance. Refer to Performance Evaluations G.O. E-240-05.

## **Disciplinary Action**

Disciplinary action is a directed action, resulting from a completed investigation, documenting an act of misconduct by an employee. It is the policy of the department to impose discipline following a series of progressive steps; however, there may be instances where deviation from that policy is warranted. Types of disciplinary action include:

### **Training**

Employee training can be recommended based on a sustained complaint where a specific training deficiency has been identified. Training/Employee development can be independent or prescribed as a lesser included element of the overall discipline recommendation.

### **Documented Oral Counseling**

Documented Oral Counseling is the first step in the progressive disciplinary process and

is intended to address relatively minor infractions. The Documented Oral Counseling memorandum will be filed in both the division file and department personnel file of the employee. The duration of this document is twelve (12) months following the date of incident. Provided there are no intervening reprimands or more severe disciplinary action of the same or a similar nature, the documented oral counseling will be of no further effect and will be removed from the files upon written request of the employee through their chain of command.

### **Written Reprimand**

A Written Reprimand is a formal written notice customarily issued by supervisors advising and reprimanding an officer, of and for certain designated and established specific failure(s) in performance, regarding departmental policies, rules and regulations, and which letters of reprimand are placed in the officer's official department and/or divisional personnel file(s). It is the second step in the progressive disciplinary process and is intended to provide the employee with a written record outlining specific corrective action that must be taken to avoid subsequent serious disciplinary action.

### **Suspension**

Suspension relieves an employee from duty for a specified period of time without pay. This is a severe disciplinary action administered by the department when an employee commits a serious violation of established rules or after written reprimands have been given and no change in performance has resulted. It is normally the third step in the progressive discipline process.

### **Demotion**

Demotion is placing an employee in a position of lower responsibility and pay. It will normally be used only when an otherwise good employee is unable to meet the standards required for a higher position.

### **Termination**

Termination is the most severe disciplinary action that can be taken. Such disciplinary action usually occurs when previous discipline has been imposed and there has been no or inadequate change in performance or behavior. It also may occur when the employee commits an offense so serious that continued employment is inappropriate.

### **Disposition Classifications**

The classifications for disposition of an investigation include:

**Unfounded** - When investigation indicates that the alleged acts did not occur.

**Exonerated** - When investigation indicates that the act occurred, but it was lawful, proper, justified and/or in accordance with department policies, procedures, rules and regulations.

**Not Sustained** - When investigation discloses that there is insufficient evidence to prove or disprove the allegations made.

**Sustained:** When the investigation discloses that by a preponderance of evidence the act did occur and was in violation of department policies, procedures, rules or

regulations. Sustained allegations include misconduct which falls within the broad outlines of the original allegation(s).

**Misconduct not based on the complaint** - When investigation discloses sustainable misconduct that is not part of the original complaint.

**Closed** - When the investigation cannot be processed further due to a lack of cooperation by the complainant, or when the Chief of Police/designee determines that the action in the complaint does not fall within the administrative jurisdiction of the department. A closed investigation may be re-opened upon direction of the Chief of Police/designee.

## **PROCEDURES**

### **Initial Complaints**

#### **Who Can Make a Complaint?**

1. Complaints will be accepted from any person regardless of race, color, religion, age or standing in a criminal case, and through any means, whether in person, by mail, by telephone, or by electronic mail.
2. A complaint may be anonymous but must allege definite improper action, give sufficient particulars to make an investigation feasible, and must be reviewed by the Chief of Police/designee for determination as to the extent of the investigation.
3. In the case of a complaint from a juvenile, the person receiving the complaint will make a preliminary review of the complaint and determine if an adult responsible for the juvenile should be notified. The presence of a responsible adult, if available, is encouraged.
4. An employee will notify their immediate supervisor if they become aware of possible misconduct by another employee. If the alleged offender is the complaining employee's immediate supervisor, then that employee will notify the supervisor at the next level within their chain-of-command.

#### **Who Can Receive a Complaint?**

1. Any department supervisor can take a personnel complaint. It is the desire of the Reno Police Department to respond quickly and professionally to citizen complaints. First line supervisors are encouraged to interact with citizens in an attempt to assess the seriousness of an allegation, take immediate corrective action if deemed necessary, or mediate lesser complaints. Citizen interaction is critical to understanding how the department and its employees are perceived by the community, and for effective performance management of personnel. As such, supervisors, with the agreement of the complainant and the involved member, have the discretion and authority to informally resolve Category II and Category III complaints. Every effort should be made to handle minor complaints at this level.
  - A. When a complaint is resolved in this manner, the member shall be advised of the complaint by the assigned supervisor and, if necessary, counseled or instructed to prevent future problems. Documentation of the informal resolution will be done at the Divisional level. If the complaint cannot be resolved at this level, the Chief of Police will review and assign the complaint as necessary. The Internal Affairs Office will then log the complaint and forward the matter for investigation as assigned by the Chief of Police.

2. The supervisor receiving the initial **formal** complaint will complete the Department Complaint Form and attempt to obtain a written statement from the complainant, if possible. The supervisor will complete a summary of the complaint and forward the information to Internal Affairs through their chain of command.
3. If the complainant refuses to make a formal complaint but the allegation is of a serious nature and there are articulable circumstances requiring an extensive investigation, the complaint taker will continue the process in the same manner as if a formal complaint had been made.
4. If the complaint is serious enough to require extensive investigation, no contact will be made with the employee(s) involved and the Formal Personnel Complaint report will be sent, via the employee's chain-of-command, to Internal Affairs. It may be necessary for the employee's chain of command to provide the employee with an immediate verbal and/or written admonishment as to future job performance expectations related to a potential complaint. This admonishment should be documented in the form of a memo and place the employee on notice that if the conduct is in fact occurring, it is to stop. This action may not be necessary in all cases, but is appropriate when circumstances indicate that the alleged misconduct may continue. The department has an interest in stopping potential future misconduct, while preserving the employee's rights during an investigation. The written admonishment direction is not considered discipline, as it relates to future conduct and not to actions that have already transpired.
5. If the nature of the complaint seems to warrant immediate action, the complaint taker will confer with the employee's commanding officer and/or the Chief of Police/designee to determine if the complaint should be investigated immediately.

### **Routing of Initial Complaint**

1. Internal Affairs will be the central point of all personnel complaints, sworn and professional. All complaint documentation, including detailed statements if possible, will be forwarded to Internal Affairs via the employee's chain-of-command.
2. The Chief of Police/designee will determine investigative assignments as soon as possible.
3. Barring reasonable investigative delays, administrative investigations will generally reach a disposition classification within 90 days of the initial complaint. In cases where more than 90 days is required to reach a disposition classification, the Chief of police, or his/her designee, will be consulted and must approve any extensions.

The following items should be considered to be reasonable investigative delays:

- Case priority
- IAU Investigator case load
- Availability of citizen witnesses, officer witnesses and principal officers
- Multiple involved witnesses
- Complexity of investigation
- Transcription of investigative interviews
- Pending criminal investigation
- Requirements of NRS 289

## **Citizen generated complaints:**

The investigator will notify the citizen complainant of the status of the investigation every 30 days until the completion of the investigatory process. These notifications will be noted in the case file. At the conclusion of the case investigation, a letter will be sent to the citizen complainant by the investigating officer advising the citizen of the outcome of the investigation limited to the disposition classification. No discussion of disciplinary action will be included in the letter.

## **Complaint Categories**

Regardless of category, a police officer involved will be afforded all the rights and privileges as outlined in the United States Constitution, Nevada Revised Statute (N.R.S.) 289 – Rights of Peace Officers, and applicable collective bargaining agreements.

### **CATEGORY I**

Category I complaint investigations will generally require investigation by Internal Affairs.

- a. Criminal Conduct/Code of Conduct
- b. Discrimination
- c. Dishonesty
- d. Excessive Force
- e. False arrest (including bad faith Fourth Amendment)
- f. Improper Tactics
- g. Racial/ethnic slurs
- h. Firearms and Shooting Policy
- i. Improper Search and/or Entry
- j. Sexual Harassment

The Chief of Police will have the discretion to assign any complaint as a Category I investigation.

### **CATEGORY II**

Category II complaints will generally be investigated by the involved employee's immediate supervisor. Complaints/Investigations falling into this category will be referred by Internal Affairs, with the approval of the Chief of Police, to the appropriate Division Commander. Assignment of the investigating supervisor will be determined by the Division Commander.

- a. Discourtesy
- b. Improper procedure
- c. Performance of Duty

### **CATEGORY III**

Category III complaints generally involved cases where a citizen is requesting policy or procedure clarification. The Chief of Police will direct the complaint to the involved employee's Division Commander or the Internal Affairs Unit.

## **Employee Rights during investigative process**

### **Advance Notice of Interview (NRS 289.060)**

The assigned investigator, not later than 48 hours before any interview hearing is held relating to an investigation of the activities of an employee which could result in disciplinary action, will provide written notice to the employee. The advance notice will inform the employee of:

- The nature of the investigation and potential charges;
- A summary of alleged misconduct by the employee;
- The date, time and place of the interview;
- The name and rank of the individual in charge of the investigation and the individual(s) who will conduct the interview; and
- The name of any other person who will be present during the interview.

### **Rights to Representation during Questioning (NRS 289.080)**

1. A peace officer may, upon request, have two representatives of their choosing present during any phase of an interrogation or hearing relating to an investigation conducted in response to a complaint or allegation that the officer has engaged in activities which could result in punitive action. The representatives may include, without limitation, a lawyer, a representative of a labor union or another peace officer. The representative must not otherwise be connected to, or the subject of, the same investigation. The purpose of a representative/attorney chosen by an employee is to:
  - Give objective assistance to the employee.
  - Present objective, logical arguments for the employee.
  - Ensure the interview is conducted under circumstances devoid of intimidation, coercion, or reward, and does not otherwise violate constitutional or employee rights.
  - Ensure the employee is allowed to present his/her side of the story or incident.
  - Advise the designated interviewer if the representative perceives a possible violation. Should the interviewer disregard or disagree with the representative's observation, the representative may make note of that fact but will not otherwise interfere with the designated interviewer's actions. The representative will immediately contact the appropriate association representative and/or the Chief of Police/designee and advise what has taken place. This information will be in writing, as it may constitute a separate complaint.
2. The representative shall be allowed to explain an answer provided by the employee or refute a negative implication which results from questioning of the employee. The investigator may require that any such explanation to be provided after the agency has concluded its initial questioning of the employee.
3. Employee representation is not included for employee interviews of employees in the normal course of duty, counseling, instructions, informal verbal admonishments, and/or routine or unplanned contacts with a supervisor.
4. The representative will not be insubordinate or disrespectful to the department's designated interviewer.
5. The decision whether to have the representative(s) present during a disciplinary interview will be made by the employee rather than the department.

### **Interview Guidelines**

An employee may be ordered to appear before the investigator at a reasonable time and place to submit to questioning or other investigation. Prior to questioning, the employee will be advised of his/her rights and responsibilities in writing. Interview guidelines include the following:

- The interview will take place while the employee is on-duty, if possible, or, if not, the employee will be compensated for that time based on their regular wages.
- An employee who refuses to respond to questions or submit to an interview may be ordered to respond by the administrative investigator. Should the employee continue to refuse or fail to respond to questioning, the administrative investigator will inform the employee that they could be subject to an additional, separate charge of insubordination which could result in disciplinary action.
- Interviews will be done under circumstances devoid of intimidation, coercion, or reward, and will not otherwise violate the employee's constitutional rights. The employee will not be subjected to abusive language.
- Questions directed to the employee during the interview may be asked by and through only two interviewers at one time.
- The scope of the questions will be limited to the alleged misconduct of the employee. Interviews will be limited to activities, circumstances, events, conduct or acts pertaining to the matter under investigation.
- The employee or his/her representative will be allowed to explain an answer or refute a negative implication resulting from questioning during the interview.
- Interviews will not be overly long. The employee will be entitled to reasonable intermissions for personal reasons as requested.
- The employee or the department may make an audio/video recording of the interview. If the department records the proceedings and/or interviews, the department will, at the employee's request and expense, provide a copy of the audio/video transcript of the proceedings and/or a audio/video copy of the proceedings.

**NOTE:** Any applicable requirements in existing employee collective bargaining agreements will be adhered to by the administrative investigator.

### **Evidentiary Tests**

Upon the order of the Chief of Police/designee, employees will submit to medical, ballistics, chemical or other tests, photographs, a breath test, voice print, handwriting examination, line-ups, or any other evidentiary test as determined by the investigator. Procedures will conform to departmental policies, procedures and rules and must be specifically directed and narrowly related to the particular investigation being conducted by the department. The report will contain articulated reasons for requesting any physical test.

### **Property Searches**

1. An employee's personal property will not be subjected to search or seizure without a warrant or probable cause.
2. Department property may be examined, even if assigned to, or used exclusively by, a single employee; *i.e.*, lockers, vehicles, computers, department owned cell phones, etc.

### **Communication Monitoring**

Departmental communications or other communications or conversations may be monitored

under conditions permitted by law.

## **News Media**

The department will not cause the employee to be subjected to visits by the news media, nor will the employee's home address, telephone number or photograph(s) be given to the news media without the employee's express consent. In cases where a peace officer has been arrested, the department may release the officer's photograph. In cases where the employee is seriously injured or killed the department may, with the consent of the most immediate family member, release the most current department file photograph to the news media.

## **Personal Information**

The Reno Police Department will not require employees to disclose their assets, debts, sources of income or other financial information or make such a disclosure a condition precedent to a promotion, job assignment or other personnel action unless that information is necessary to:

- Determine the employee's credentials for transfer to a specialized unit; or
- Prevent any conflict of interest which may result from a new assignment.

## **Polygraph Tests**

1. A polygraph test may be administered in accordance with NRS 289.070, 289.050 and contractual provisions.
2. The Officer against whom an allegation is made may, but is not required to, submit to a polygraph exam concerning activities related to the investigation. If the employee declines to submit to a polygraph examination:
  - a. The Department will not take disciplinary action against the employee, and;
  - b. The Department's assigned investigator will not make a note of such declination in the report; and
  - c. Evidence of an employee's declination of a polygraph examination under this subsection is not admissible at any subsequent hearing, trial, or other judicial or administrative proceeding regarding this investigation.
3. When a polygraph examination is given pursuant to this subsection, an audio or video recording must be made of the examination, the preliminary interview, and the post-examination interview. Before the opinion of the examiner regarding the employee's veracity may be considered in a disciplinary action, all records, documents and recordings resulting from the examination must be made available for review by one or more examiners licensed or qualified to be licensed in this State who are acceptable to the law enforcement agency and the employee being investigated. If the opinion of the reviewing examiner does not agree with the initial examiner's opinion, the employee must be allowed to be re-examined by an examiner of his/her choice who is licensed or qualified to be licensed in this State. In any event, the department shall not use a polygraph examiner's opinion regarding the veracity of the employee under investigation as the sole basis for disciplinary action against the employee. (NRS 289.070)
4. The following guidelines will be used when administering a polygraph exam to an employee under investigation. The employee will be:

- Given ample advance notification prior to scheduling of the polygraph examination;
  - Advised of the circumstances and purpose of the examination; and
  - Provided with a list of questions to be asked prior to the polygraph examination.
5. A person who makes an allegation against an officer pursuant to NRS 289.070 may not be required to submit to a polygraph examination as a condition of the investigation of the allegation, but may request or agree to a polygraph examination. If the complainant requests or agrees to a polygraph examination, such examination must be given.

### **Administrative Investigation – RPPA/RPSAE**

\*\* In the event of the existence of a Disciplinary Review Board as approved by the Chief of Police, RPPA and RPSAE, the disciplinary review process and appeals process will follow that which is outlined in General Order E-140-04, Disciplinary Review Board, for members of the RPPA and RPSAE. If by agreement of the Chief of Police, RPPA and RPSAE that the Discipline Board will not be utilized, the process will return as outlined in this document under "Administrative Investigations – Local 39"

### **Preliminary Investigation**

1. Prior to proceeding with an administrative investigation, Internal Affairs must determine that the investigation will not jeopardize a possible criminal investigation involving the same incident(s).
2. The preliminary investigation will include, but not be limited to:
  - Immediately questioning witnesses and complainants and obtaining written or tape-recorded statements.
  - Gathering evidence which may be lost if not secured immediately, such as photographs of injuries, blood tests for chemical intoxicants, etc.
3. The preliminary investigation, and any subsequent written documentation, will be completed by the end of shift and forwarded to the appropriate division supervisor for review, proceed through the chain of command, and subsequently go to Internal Affairs.

At the conclusion of an internal investigation, the investigator will submit a written report to the Internal Affairs Lieutenant, who will approve the report for the Disciplinary Review Board process.

### **Employee Review**

The employee under investigation may review the written report of that investigation if the report is completed, and a request for review is made through the Chief of Police of, or his/her designee.

### **Disciplinary Review Board process**

The Disciplinary Review Board process will follow the outlined procedure per contract and stated in the Disciplinary Review Board G.O. (E-140-04).

## **Chief of Police Review**

The Chief of Police will review the completed formal personnel investigation, accompanying documents and recommendations.

- If the Chief of Police concurs with the recommendations, he/she will forward the investigation and accompanying documents, with his/her written concurrence, to Internal Affairs for implementation.
- If the Chief of Police does not concur with the recommendations, he/she may return the investigation and accompanying documents to Internal Affairs for re-evaluation and/or follow-up investigations.

The Chief of Police reserves the right to modify any recommended corrective or disciplinary action, absent arbitration, court, or civil service limitations, for the good of the department.

Once the Chief of Police has approved or modified the recommended charges and corrective or disciplinary action(s), Internal Affairs will issue a disciplinary action memo to the charged employee. The disciplinary action memo will include:

- The date(s) when and place(s) where the alleged act(s) occurred;
- A statement of the alleged acts or omissions;
- A statement of the findings and disposition;
- The recommended disciplinary action; and,
- The charged employee's rights to appeal through the administrative appeals hearing process.

## **Sustained Findings**

If the employee is not satisfied with the discipline recommendation of the Chief, the employee may follow the appeals process as outlined in their contract and the "Appeals Process" below.

## ***Suspension Days***

- Three (3) days or less, will normally be served within 90 calendar days.
- Four (4) days to eight (8) days, will normally be served within 180 calendar days.
- Nine (9) days or greater, will normally be served within 360 calendar days.

The Chief of Police or his designee may extend the time frame in which the suspension days must be taken in response to a written request submitted by the employee to the Chief. This will normally be done in exceptional cases where ten or more suspension days are ordered. The intent of this section is to not put undue financial hardship on the employee while maintaining the integrity of the discipline process.

## **Other than Sustained Recommendations**

When Internal Affairs is notified that the Chief of Police has approved the recommended disposition of other than sustained, Internal Affairs will notify the employee via memorandum within 14 calendar days.

## **Administrative Investigation - Local 39**

## **Preliminary Investigation**

1. Prior to proceeding with an administrative investigation, Internal Affairs must determine that the investigation will not jeopardize a possible criminal investigation involving the same incident(s).
2. The preliminary investigation will include, but not be limited to:
  - Immediately questioning witnesses and complainants and obtaining written or tape-recorded statements.
  - Gathering evidence which may be lost if not secured immediately, such as photographs of injuries, blood tests for chemical intoxicants, etc.
3. The preliminary investigation, and any subsequent written documentation, will be completed by the end of shift and forwarded to the appropriate division supervisor for review, proceed through the chain of command, and subsequently go to Internal Affairs.

At the conclusion of an internal investigation, the investigator will submit a written report to the appropriate Deputy Chief, who will then refer the report to the appropriate division supervisor for a disciplinary recommendation.

## **Employee Review**

The employee under investigation may review the written report of that investigation if the report is completed, and a request for review is made through the Chief of Police.

## **Division Commander Responsibilities**

Upon receiving the final report from an internal investigation, the Division Commander will recommend charges and corrective or disciplinary actions in the format outlined in the division presentation, or recommend other dispositions of the complaint. The Division Commander's recommendation will be forwarded to the Chief of Police/designee.

## **The Chief of Police Review**

The Chief of Police will review the completed formal personnel investigation, accompanying documents and recommendations received from the Division Commander. If the Chief of Police concurs with the recommendations, he/she will forward the investigation and accompanying documents, with his/her written concurrence, to Internal Affairs for implementation. If the Chief of Police does not concur with the recommendations, he/she may return the investigation and accompanying documents to the Division Commander for re-evaluation.

The Chief of Police reserves the right to modify any recommended corrective or disciplinary action, absent arbitration, court, or civil service limitations, for the good of the department.

Once the Chief of Police has approved or modified the recommended charges and corrective or disciplinary action(s), Internal Affairs will issue a disciplinary action memo to the charged employee. The disciplinary action memo will include:

- The date(s) when and place(s) where the alleged act(s) occurred;
- A statement of the alleged acts or omissions;
- A statement of the findings and disposition;

- The recommended disciplinary action; and,
- The charged employee's rights to appeal through the administrative appeals hearing process.

## **Sustained Findings**

If the employee is not satisfied with the discipline recommendation of the Chief, the employee may follow the appeals process as outlined in their contract and the "Appeals Process" below.

## **Other than Sustained Recommendations**

When Internal Affairs is notified that the Chief of Police has approved the recommended disposition of other than sustained, Internal Affairs will notify the employee via memorandum within 14 calendar days.

### **All Employees**

#### **Right to a Written Response**

Each employee has the right to respond, in writing, to a written disciplinary action taken against them, including a suspension or demotion. The employee has 30 calendar days from the date of service of the disciplinary document to provide the department with a written response. The written response will be submitted to the Chief of Police/designee via the chain of command. The employee's written response will follow the written disciplinary document through the processing steps and into the appropriate file(s). This right is separate from the appeals process, and may or may not be utilized by the employee.

### **Appeals Process**

Employees may choose to exercise their rights under the appeals process without fear of disciplinary action for exercising that right. For appeals process guidelines, see Addendum A and applicable articles in the appropriate collective bargaining agreement.

#### **Review by Next Level Supervisor/Divisional Hearing**

Upon completion of an internal investigation, any recommended discipline may be appealed in accordance with the applicable collective bargaining agreement.

### **Administrative Appeals Hearing**

An Administrative Appeals Hearing is a formal disciplinary grievance appeals process initiated by an employee wherein the Chief of Police/designee reviews investigations and disciplinary recommendations.

1. After the conclusion of the investigation and a recommendation for discipline has been made by the Chief of Police, the peace officer who was the subject of the investigation or any representative of the peace officer may, if the peace officer appeals a recommendation to impose punitive action, review and copy the entire file concerning the internal investigation, including, without limitation, investigative files, recommendations, documents, any recordings, notes, transcripts of interviews and other evidence pertaining to the case. This does not apply to any investigation which concerns alleged criminal activities.

2. If the employee elects to appeal for a sustained violation(s) of policy, the department will provide the employee with an opportunity for an Administrative Appeals Hearing. The appeals process will be activated in writing within 10 working days of the date of service to the employee through Internal Affairs. This process must be utilized or waived prior to commencing either the Civil Service or grievance/arbitration process.
3. If the charged employee does not request an Administrative Appeals Hearing within the appeal period, the disciplinary action(s) will be implemented by the charged employee's immediate supervisor within a period of time regarded as reasonable by the division commander.
4. Within ten (10) working days after receipt of the appeal request, the Chief of Police/designee shall schedule a meeting with the aggrieved party and representative. The Chief of Police/designee will be supplied with the investigative files, recommendations, documents, and other evidence pertaining to the case as well as the charged employee's departmental and divisional personnel files.
5. The charged employee and/or his/her designated representative(s) may present their case, if any, before the Chief of Police/designee. The Chief of Police/designee will then decide if the original allegations are sustained. If the allegations are deemed to be sustained, the Chief of Police/designee will decide upon a corrective or disciplinary action, taking into consideration aggravating and mitigating circumstances.
6. The Administrative Appeals Hearing will be attended by:
  - The Chief of Police/designee;
  - An Internal Affairs investigator;
  - A representative designated by the Chief of Police/designee;
  - The charged employee; and If requested by the charged employee, his/her representative(s).
7. The Chief of Police shall, within five (5) working days of the meeting, render a decision and reasons therefore in writing to the aggrieved party and the Association President.
8. The Chief of Police/designee may remand the case for additional investigation.
9. The Chief of Police/designee may remand the case to Internal Affairs for recharging if he/she decides the charge(s) are inappropriate. Internal Affairs will recharge the employee by issuing a new disciplinary action report.
10. Employees may be allowed additional appeal levels as permitted by contractual agreement.
11. The Chief of Police/designee will notify Internal Affairs, in writing, of the specific final action taken by the department on each complaint.

#### **Contract Grievance/Arbitration Process**

Each employee may utilize their contract's grievance/arbitration process. This Grievance/Arbitration process covers disciplinary actions other than written reprimands or performance appraisals that do not result in a pay-step reduction. Employees may either choose this appeal process or the Civil Service Process, but not both. This Grievance/Arbitration Process is initiated by a written appeal directed to the City Manager's Office within 10 calendar days of the date of service of the disciplinary document.

## **Reno Civil Service Commission**

Each employee may utilize the Reno Civil Service Commission to appeal applicable disciplinary actions brought against them. The initiation of the appeals process requires a written document requesting a hearing be placed before the Secretary of the Civil Service Commission within 10 calendar days of the date of service of the disciplinary document. This process may not be used if the Grievance/Arbitration process is used. Upon receipt of the written request for a hearing, the disciplinary action is automatically stayed until the hearing in accordance with Reno Civil Service Rules and Regulations applicable to the employee's classification.

## **Suspension Procedures**

When an employee is suspended, the following will take place:

1. The employee will contact the department's payroll clerk and complete the required documents, including a memorandum and signed leave C form approved by the employee's supervisor listing the suspension dates, with intended completion date. The employee may not deviate from this planned discipline schedule unless approved in advance by his supervisor.
2. An employee may be required to deposit his/her departmental identification card and badge (sworn employees) with his/her division commander at the beginning of a suspension. Upon completion of the suspension, the employee will retrieve his/her department identification card and badge from his/her division commander.
3. Employees, while on suspension, will not be considered to have authority or responsibility conferred upon them by the privileges of being employed by the City. Sworn personnel will not take any law enforcement action representing the Reno Police Department. Employees are still responsible for adhering to policies and procedures from which they have not been specifically relieved.

## **Suspension Days**

- Three (3) days or less, will normally be served within 90 calendar days.
- Four (4) days to eight (8) days, will normally be served within 180 calendar days.
- Nine (9) days or greater, will normally be served within 360 calendar days.

The Chief of Police or his designee may extend the time frame in which the suspension days must be taken in response to a written request submitted by the employee to the Chief. This will normally be done in exceptional cases where ten or more suspension days are ordered. The intent of this section is to not put undue financial hardship on the employee while maintaining the integrity of the discipline process.

## **Termination Procedures**

### **Pre-Termination Hearing**

An employee who receives a pre-termination hearing, as delineated within his/her individual employee contract, will not be removed from pay status until the outcome of the hearing. The purpose for this hearing is for the employee to respond to specific charges and present evidence on his/her behalf. The employee has the right to representation during this hearing.

### **Informational Memorandum**

When an employee is terminated for misconduct, following grievance and appeal procedures, an informational memorandum will be written by Internal Affairs to the affected employee informing him/her of:

- The reason for the dismissal;
- The effective date of the dismissal;
- A statement directing the employee to Human Resources for the status of fringe and retirement benefits after dismissal; and
- A statement as to the content of the employee's employment record relating to the dismissal.

### **Maintenance of IA Reports**

Actions taken by the Reno Police Department against its employees will be in accordance with department policies and procedures, Nevada Revised Statutes, Reno Civil Service Rules and Regulations, employee contract provisions, and court decisions. For a sustained complaint, only a copy of the disposition of the allegation of misconduct and a copy of the notice of or statement of adjudication of any punitive or remedial action against the officer will be placed in the employee's administrative files.

The Department will not place an unfavorable comment or document in the administrative files of an employee unless the employee has read and initialed or signed the comment or document. If the employee refuses to read, initial or sign the comment or document, a notation to that effect will be made and attached to the comment or document.

### **Criminal Investigations**

If at any point during an internal investigation, evidence points to an employee's involvement in any type of criminal offense, or where the initial complaint alleges criminal conduct by an employee, the complaint/investigation will be immediately submitted to the appropriate division commander or the Chief of Police/designee for assignment to the Detective Division. Criminal investigations will generally take priority over administrative investigations. Detective Division personnel will be responsible for liaison with the prosecutor's office.

Criminal investigations involving department employees or relatives of department members will be handled in the same manner as criminal investigations involving non-employees. If a conflict of interest, as defined in this general order, should arise, the investigation will be assigned as necessary to negate the conflict. This may include the assignment of the investigation to an outside investigative agency if such assignment, in the opinion of the Chief of Police, would be in the best interest of the department. The Chief's office will maintain a list of acceptable investigative agencies within the State of Nevada for referral purposes.

### **Right to Invoke**

In cases where there is a likelihood or possibility that an employee could face criminal sanctions and a criminal investigation occurs, the employee may exercise his/her right to protect himself/herself from self-incrimination and refuse to provide a statement. Exercising this right during the criminal investigation will have no adverse affect on the individual's employment status.

### **Compelled "Garrity" Statements**

Employees can refuse to provide a statement related to a criminal investigation. However, they can be directed, as an employee, to provide a statement for use in an administrative investigation. When doing so, the employee must be admonished that the statement is compelled and cannot be used in any criminal proceeding against the employee. However, the compelled statement can be used by the department for any other purpose.

### **Employee Refusal to Comply/ Insubordination**

If an employee refuses to provide a compelled statement upon the order of a supervisor for their own or another law enforcement agency in a criminal investigation in which they are not the subject of the investigation, the department may charge the employee with insubordination.

### **Use of Garrity Statements**

Under current case law, a compelled Garrity statement constitutes use immunity for the officer providing the statement; thus, it cannot be used to criminally prosecute the officer compelled to make the statement. It can, however, be included in a criminal investigation that involves another party. It is the general policy of this Department to exclude compelled Garrity statements from use in any criminal investigation; however, exceptions may be made in the appropriate case.

### **Separation of Investigations**

It is the policy of this Department that parallel investigations of a single incident by different divisions within the Department or a Department division and an outside agency at the Department's request are kept completely separate. While this policy may result in some duplication of effort or result in officers giving more than one statement, it is essential that officers have confidence in the integrity of the investigations and the admonitions and protections provided.

### **Field Supervisor Responsibilities**

At the scene of an incident where an officer invokes, supervisors and officers arriving have the responsibility of assuring public safety and identifying and protecting relevant evidence. In order to fulfill that responsibility, the invoking officer will be required to answer questions directly related to public safety and evidentiary matters. The scope of the questioning will vary according to the specific conditions of the incident and will include, but not necessarily be limited to, questions concerning fleeing suspects, injured persons, and the location of relevant evidence. Invoking officers will be immediately directed by the first supervisor on scene to provide a compelled statement concerning only those issues identified above. As soon as the initial compelled statement has been obtained, the invoking officer will immediately be segregated from other officers and instructed not to discuss the case with anyone other than his/her representative. The employee will be afforded an opportunity to obtain representation before any additional statements are compelled.

### **Compelling Supervisor's Involvement in Investigation**

The supervisor compelling and receiving the exigent circumstances statement will not participate in the criminal investigation; his/her sole responsibility will be to direct other officers to attempt to locate suspects, other victims and/or evidence, in accordance with the information provided by the involved officer.

## **Arrests Made by Invoking Officer**

In the event an officer is involved in an incident during which he/she has made an arrest and there is a reasonable probability the incident will become the subject of a criminal investigation, he/she may choose to invoke. The officer may be compelled to complete the reports to include probable cause form and continuation report in support of the arrest. Not doing so would result in the defendant being released from custody and create the potential for civil litigation.

## **Internal Affairs Responsibilities**

Generally, Internal Affairs will be notified and respond immediately, along with the Department's legal advisor, to incidents which may result in the employee invoking during a criminal investigation or to any major incident which may have legal repercussions for the Department and the officers involved in the incident. If an administrative investigation is directed, an Internal Affairs investigator will contact the employee, provide the required notice of administrative investigation, and schedule an interview to occur within a reasonable time period. If the employee desires, a compelled statement can be provided at the time of the incident. Criminal investigators will continue their investigation independent of the administrative investigation.

## Addendum A

### APPEALS PROCESS GUIDELINE

1. = Review by next level supervisor.  
2. = Written Response Right (30 Days).  
3. = Administrative Appeals Hearing.  
4. = Contract Grievance/Arbitration Procedures.  
5. = Civil Service Commission.  
\* = If it reduces pay.  
\*\* = If equal to one of the above types of disciplinary actions or combinations thereof.  
Those applicable processes may be utilized, i.e., two-day suspension of 4 days or more.

Note: OR means either contract grievance procedure OR Civil Service Commission, not both.

<u>Levels of Disciplinary Action</u>	<u>Applicable Appeal Process</u>				
	1.	2.	3.	4.	5.
Documented Oral Counseling (1st Step)	Yes	Yes	Yes	No	No
Written Reprimand (2nd Step)	Yes	Yes	Yes	No	No
Suspensions of 3 Days or Less (3 <sup>rd</sup> Step)	Yes	Yes	Yes	Yes	Yes
Suspensions of 4 Days or More (3 <sup>rd</sup> or 4 <sup>th</sup> Step)	Yes	Yes	<u>OR</u> Yes	Yes	Yes
Demotion (Not Confirmed)	Yes	Yes	Yes	Yes	No
Demotion (Confirmed)	Yes	Yes	<u>OR</u> Yes	Yes	Yes
Termination (Not Confirmed) (5 <sup>th</sup> & Final Step)	Yes	Yes	<u>OR</u> Yes	Yes	No
Termination (Confirmed) (5 <sup>th</sup> & Final Step)	Yes	Yes	Yes	Yes	Yes
Supplemental Performance Appraisal Form	Yes	Yes	Yes	*	No
Other**	**	**	<u>OR</u> **	**	**

## **Addendum B**

### Field Admonition

You are being ordered to provide answers to questions narrowly related to the public safety and evidentiary concerns of the incident that just occurred. Your answers constitute a compelled statement and cannot be used against you in any criminal proceeding. If you refuse to answer, your refusal will be considered insubordination and you will be subject to disciplinary action, up to and including termination.

At the completion of this limited questioning, you will be segregated from the other officers and will not be questioned further until your representative, if desired, has arrived.